

IMPLEMENTATION OF RESTORATIVE JUSTICE IN THEFT CASES (CASE STUDY LP/B/14/VII/SPKT)

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ABSTRACT

Restorative Justice (RJ) is a non-litigation approach to resolving criminal cases that focuses on repairing the harm caused by the crime while fostering reconciliation between the victim and perpetrator. This study examines the implementation of RJ in a theft case under Article 363 of the Criminal Code in Cirebon in 2024. The purpose of this research is to evaluate how the police utilized RJ to address the theft and prioritize the rights of the victims while holding the perpetrators accountable. Using an empirical juridical method, this study analyzes the application of RJ through interviews conducted at the Kedawung Police Station, examining both legal frameworks and practical application. The results indicate that RJ offers an effective, faster, and more cost-efficient resolution for cases like petty theft, promoting victim recovery and perpetrator accountability. The case was successfully resolved when the perpetrator agreed to compensate for the stolen goods and return the victim's losses through a family-based agreement, fulfilling both material and formal requirements as stipulated in the National Police Regulation No. 8/2021. The study concludes that RJ can be a progressive alternative for resolving criminal cases, though challenges such as community resistance and the need for law enforcement training remain potential barriers to its broader application.

Keywords: Restorative Justice, Theft Crime, Kedawung Police

INTRODUCTION

Restorative Justice is a non-litigation criminal case resolution that aims to improve the relationship between various parties involved to overcome the losses suffered by the victim (Salsabila Haura Yusdika, 2024). The application of Restorative Justice in Indonesia has been applied in several cases, especially in cases of minor crimes that can be resolved with this method. Restorative Justice is used as a peaceful resolution of conflicts outside the court so that cases arising from the occurrence of criminal acts can be resolved effectively. Based on data obtained from the Indonesian Attorney General's Office, it is said that the settlement of restorative justice cases in 2022 amounted to 1,456 cases, then in 2023 there will be an increase of 2,407 cases, while in 2024 there will be a decrease of only 1,985 cases. Restorative Justice is applied in Indonesia as an alternative to case resolution, through a mediation process that provides an opportunity for the parties to reach an agreement through a settlement that does not cost a lot of money, time, and effort. Restorative Justice applies in Indonesia by not setting aside existing norms, regulations and laws in Indonesia. (Eko Syaputra, 2021)

Restorative Justice prioritizes the recovery of victims and perpetrators. This is because in every crime the victim will generally be the first party to receive and suffer losses. Both the victim and the perpetrator are effectively involved in the mediation process to reach a mutual agreement. The victim can convey the losses suffered and the perpetrator is given the opportunity to account for it, through compensation mechanisms, peace, and other agreements. (Argenta, 2023).

The legal basis of Restorative Justice has actually been contained in the Criminal Code or in the focus of Law No. 1 of 2023 concerning the Criminal Code (KUHP) which regulates Restorative Justice even though it is not explicit. Based on the language contained in Article 54 and the context governing the guidelines, the sentencing must consider forgiveness from the victim or the victim's family. Therefore, the Criminal Code also opens opportunities for judges to grant pardons or Judicial Pardons and this is the fundamental basis for changing the direction of punishment in accordance with progressive law.

Meanwhile, based on the Regulation of the National Police Chief Number 8 of 2021 concerning the handling of criminal acts through restorative justice, this regulation focuses on being a reference for Police Investigators in resolving criminal cases that are not resolved at the investigation stage or the case is not delegated to the public prosecutor to the District Court (Yuliarto, 2023). The influence of Restorative Justice in the police investigation process has the potential to reduce the number of cases that go to court considering that not all criminal cases require a judicial process. One of the cases is the settlement of violations of the Law in article 363 paragraph (4) of the Criminal Code related to theft.

The problem discussed in this study focuses on examining the application of Restorative Justice in a theft case under Article 363 of the Criminal Code that occurred in Cirebon in 2024, with a report number LP/B/14/VII/SPKT/KEDAWUNG POLICE/CIREBON CITY POLICE/WEST JAVA POLICE. The specific case involves the suspects, identified as D and R, who admitted to the crime after receiving a report from the victim. The perpetrators gradually took the victim's belongings, including three gold rings totaling 9.54 grams and cash amounting to Rp. 150,000,000 (one hundred and fifty million rupiah). The total loss from the theft amounted to Rp. 146,700,000.

This study aims to investigate the implementation of Restorative Justice through police efforts in resolving this theft case, while prioritizing the rights of the victims and holding the perpetrators accountable. Specifically, the research seeks to understand how the police use the Restorative Justice system to address the theft and provide a solution that balances the needs of both the victims and the offenders. Thus, the primary objective is to analyze how Restorative Justice has been applied in this case, as reflected in the police's approach to resolving the theft and supporting the reconciliation process.

RESEARCH METHODS

The research method used with empirical juridical by examining written regulations to see how it is applied in the field in relation to the resolution of ordinary criminal acts through the use of restorative justice where the issues studied use a qualitative approach. This research obtained results based on (field research) or field research so that the analysis of primary data

was obtained by means of interviews conducted directly at the Kedawung Police Station and this research was supported using progressive legal theory and basic judicial law that is fast, simple, and low-cost in arrangements related to the implementation of Restorative Justice in the crime of theft in cases (LP/B/14/VII/SPKT/KEDAWUNG POLICE/CIREBON CITY POLICE/WEST JAVA POLICE) Legal research that analyzes and examines data through observation and interview techniques.

This research utilizes an empirical juridical approach by examining written regulations and their application in practice, specifically focusing on the resolution of theft crimes through the use of Restorative Justice. The research is conducted using a qualitative approach, where the primary data is collected through field research. This involves conducting interviews at the Kedawung Police Station to gather insights on how Restorative Justice is implemented in the resolution of theft cases.

The interview subjects include a total of X participants, consisting of police officers and community leaders who are directly involved in the implementation of Restorative Justice in the study's case. The interviews aim to gather both qualitative and quantitative data regarding the application of Restorative Justice, the roles of the police in facilitating the process, and the outcomes for both the victims and the perpetrators.

For data analysis, a thematic analysis technique is used to identify patterns and themes related to the application of Restorative Justice in the theft case. This involves organizing and interpreting the interview data to explore how Restorative Justice is utilized and its effectiveness in resolving criminal disputes. Additionally, qualitative descriptive analysis is employed to better understand the perspectives and experiences of both the police and the community leaders involved in the case. This research is supported by progressive legal theory and focuses on creating a fast, simple, and low-cost legal process in line with the principles of Restorative Justice.

RESULTS AND DISCUSSION

In the implementation of Restorative Justice, the roles of the key actors investigators, victims, perpetrators, and the community are essential for the success of the process. Investigators, as the facilitators of the process, play a critical role in guiding both the victim and the perpetrator through the mediation process. In this case, the Kedawung Police acted as the mediator, ensuring that the legal requirements were met and that both parties agreed to the settlement terms. The victim's role is equally significant, as their participation and willingness to engage in the restorative process are necessary for the reconciliation to occur. The victim, in this case, played an active role in recovering the losses and understanding the perpetrator's accountability. The perpetrator, on the other hand, must accept responsibility and actively participate in making amends, such as compensating for the damage caused. Finally, the community plays an important role by providing social support for the process and ensuring that there is no resistance or social conflict during the resolution. The involvement of community leaders can act as a stabilizing force, enhancing the legitimacy of the RJ process.

The settlement process through litigation is quite long and convoluted. Therefore, it is necessary to reform the law of settlement through mediation. Mediation is one of the forms of Restorative Justice practice. To provide opportunities for the parties to reach an agreement

through a settlement that does not cost a lot of money, time, energy and also does not have an impact on the parties when the mediation process is carried out which makes mediation needed in its settlement.

Dissatisfaction with the conventional litigation process is one of the triggers for the birth of the idea for Restorative Justice to be applied in Indonesia. Bagir Manan argues that Indonesian law enforcement can be said: "*communis opinio doctorum*", which means that the law enforcement is now considered to have failed to achieve the goals required by the law.

Restorative Justice serves to strengthen the basic structure of justice in Indonesia, especially in the context of non-litigation dispute resolution. Restorative Justice acts not only to resolve individual conflicts, but also to rebuild social ties damaged by criminal acts. Through the involvement of community leaders, Restorative Justice creates space for sustainable solutions, and ultimately contributes to the creation of a more harmonious and just society (Budi Sastra Panjaitan, 2022).

The urgency of applying the principle of Restorative Justice is increasingly relevant considering the complexity of the problems faced in the resolution of criminal cases in Indonesia. This approach emphasizes mediation to reach a mutually beneficial settlement. Restorative justice not only reduces the burden on the criminal justice system but also provides a more humane solution by prioritizing the moral responsibility of the perpetrator to the victim. This principle is increasingly important to be applied in various criminal cases that are light to moderate in nature, especially those that do not have a wide impact on society (Ary Chandra Kristiawan, 2023).

The restorative justice that is applied not only provides sanctions, but can also restore the losses suffered by the victim and repair the relationship damaged by the crime. Restorative Justice can be more progressive for perpetrators, victims, the environment and the existing justice system and can create fairer outcomes. In the context of theft, Restorative Justice can provide several benefits:

Victim Loss Recovery: Through mediation, the perpetrator can be directly responsible for compensating for the losses suffered by the victim, both materially and non-materially. This can provide a more real sense of justice for the victim than just punishing the perpetrator.

Perpetrator Accountability: Restorative Justice encourages perpetrators to understand the impact of their actions and actively engage in recovery. This process can help the perpetrator to develop a sense of empathy and responsibility, as well as prevent the recurrence of the crime.

More Effective and Efficient Settlement: In cases of petty theft, Restorative Justice can offer a faster and more efficient settlement compared to formal criminal justice proceedings. This can reduce the burden on the judicial system and provide a more satisfactory solution for all parties involved.

One of the forms of the application of Restorative Justice that will be discussed is in the application of theft cases in the Case Study of Settlement LP/B/14/VII/SPKT. The reported case is a violation of Article 363 of the Criminal Code. The theft committed was the theft of jewelry and cash. This theft has fulfilled the elements of the crime of theft article 363 paragraph 1 of the Criminal Code: "whoever, taking a property, wholly or partially belonging to another person, with the intention of unlawfully controlling, is committed by two or more persons in

alliance." The Kedawung Police have handled the case up to the investigation stage, but in the end the parties want peace in a family way. The police acting as investigators then gave recommendations for resolving the case with Restorative Justice and the parties agreed to carry out the settlement of the case with Restorative Justice.

Restorative Justice is based on the idea that in addition to the victim, society as a whole must be held accountable for the crime that results in loss. To help reduce and correct errors and deviations in affected communities, community members must participate. Referring to the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice if they meet the conditions as mentioned in Article 6 paragraphs (1) and (3):

- a. Peace from both sides, except for Narcotics Crimes.
- b. Fulfillment of the rights of victims and the responsibility of the perpetrator, except for Narcotics Crimes.

Article 6 paragraph (3):

The fulfillment of the victim's rights and the responsibility of the perpetrator as referred to in paragraph (1) b, can be in the form of:

- a. return the goods;
- b. indemnification;
- c. reimburse costs incurred as a result of the Criminal Act; and/or
- d. compensate for damages caused by criminal acts.

In accordance with the provisions of Perkap Number 8 of 2021, the handling of criminal acts based on Restorative Justice, especially in this study the crime of theft of gold and cash, which has been handled up to the investigation stage, then based on the results of an interview with Bripka Tendi, S.H as the supervisor of the investigation of this case, explains the settlement process based on Restorative Justice in the case of theft with Police Report Number: LP/B/14/VII/SPKT as follows:

- a. The first party agreed not to continue this problem to the next stage of investigation.
- b. That the second party is able to return the injuries suffered by the victim and will be paid in installments for 3 (three) years from the date of making this statement.
- c. The first and second parties are close relatives.
- d. Both parties will not sue each other, because this problem has been resolved familially.
- e. If in the future the second party commits the same thing or other criminal acts, then it is willing to be processed in accordance with the applicable laws in the Republic of Indonesia.

The end of the gold and cash theft case was successfully resolved peacefully through Restorative Justice. In the agreement reached, the perpetrator is willing to compensate for all losses experienced by the victim, As a form of guarantee for the fulfillment of compensation, the perpetrator handed over his house and motorcycle until all losses of the victim are paid. The process of carrying out the crime of stealing gold and cash by the police with a police number report: LP/B/14/VII/SPKT/KEDAWUNG POLICE/CIREBON CITY POLICE/WEST JAVA POLICE has been in accordance with the provisions in Perkap Number 8 of 2021 concerning the handling of Criminal Acts based on Restorative Justice.

While the application of Restorative Justice offers a promising solution, several barriers may hinder its full implementation. One of the key obstacles is the potential for community resistance. In cases where the crime is considered more severe or where there is a strong sense of injustice, community members may be unwilling to accept the idea of resolving the issue outside of the judicial system. In addition, the voluntary nature of Restorative Justice requires the active participation and mutual agreement of both parties. If either the victim or the perpetrator is not willing to engage or accept the terms of the settlement, the process cannot proceed effectively. Another barrier is the lack of sufficient training for law enforcement officers and investigators in handling these cases, which can lead to improper facilitation of the RJ process. Furthermore, in cases involving multiple perpetrators or complex criminal activities, the simplification of the legal process through RJ may not always be feasible or appropriate. Lastly, the application of Restorative Justice in more severe crimes may face legal limitations or challenges, as the existing legal framework might not fully accommodate the principles of RJ in such cases.

The process in the implementation of Restorative Justice in the settlement of theft crimes is in accordance with and meets the provisions of Perkap Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. In this case, it meets the material and formal requirements for settlement through Restorative Justice. The material requirements are met by the absence of community rejection, social conflict, or separatist radicalism, as evidenced by the presence of community leaders. Formal requirements are met with a written peace request from both parties (Nadya Maharani, 2023)

The fulfillment of the requirements makes the parties to the case submit an application letter to the Kedawung Police which contains a statement of peace and evidence that the victim's rights have been restored. The case with Police Report Number: LP/B/14/VII/SPKT/KEDAWUNG POLICE/CIREBON CITY POLICE/WEST JAVA POLICE has reached the investigation stage. The implementation of Restorative Justice in the settlement of this case has fulfilled the provisions in article 16 paragraph (1) of Perkap number 8 of 2021 which has carried out the implementation process as follows:

- I. Kedawung Police investigators have conducted a complete examination of the documents of the peace request letter submitted by the litigants in accordance with article 16 paragraph (1).
- II. The investigator who handles the case together with the investigator supervisor, the internal supervisory function and the legal function of the West Java Regional Police have conducted a case title containing the submission of the implementation of Restorative Justice in the case of Police Report Number: LP/B/14/VII/SPKT/KEDAWUNG POLICE/CIREBON CITY POLICE/WEST JAVA POLICE in accordance with article 16 paragraph (1) of Perkap number 8 of 2021 letter c.
- III. The issuance of an investigation termination order number: SPP. Sidik/05.a/VII/2024/ResKrim and the decree of termination of the investigation number: S.Tap/05.6/VII/2024/ResKrim after its approval, a special case title will be held for the settlement of cases based on Restorative Justice in accordance with article 16 paragraph (2) letter g.

Ending the case with peace and restoring the rights of the victims with an agreement that has been made and agreed upon by all parties, witnessed by the witnesses present. This has also fulfilled the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 article 5 paragraph (6). The implementation of Restorative Justice in the settlement of theft crimes with police reports number: LP/B/14/VII/SPKT/KEDAWUNG POLICE/CIREBON KOTA POLICE/POLDA has been appropriately carried out in accordance with the provisions of the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the handling of criminal acts based on Restorative Justice and the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the termination of prosecution based on Restorative Justice. The enactment of Restorative Justice in the settlement of this case, the perpetrator and the victim agreed to reconcile and had obtained from the loss of goods that had been stolen by the perpetrator.

CONCLUSION

Restorative Justice is the settlement of criminal cases in the investigation process that aims to improve the relationship between various parties involved to overcome the losses experienced by the victim. The application of Restorative Justice in this study was successfully implemented even though there are no applicable standards for its implementation. The key lies in the agreement and willingness of both parties, namely the victim and the perpetrator. The end of the gold and cash theft case has been successfully resolved through Restorative Justice in the agreement reached by the perpetrator is willing to compensate all losses experienced by the victim as a form of guarantee for the fulfillment of compensation, the perpetrator gives up his house and motorcycle until all the victim's losses are paid. In this case, the material and formal requirements for settlement through Restorative Justice have been met. The material requirements are met by the absence of community rejection, social conflict, or separatist radicalism, as evidenced by the presence of community leaders. The formal requirements are met with a written peace request from both sides.

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